

Response

A. Introduction

Contrary to the Examiner's contention, claims 1-22 were not pending in the application prior to the preceding amendments. Instead, only claims 12-22 were pending. Claims 1-11 were cancelled in the Second Preliminary Amendment submitted December 15, 2005, for which the U.S. Patent Office acknowledged receipt. Accordingly, Applicants request that the Examiner withdraw her rejections of claims 1-11 as erroneously issued.

In the Office Action, the Examiner initially rejected claims 12-22 under 35 U.S.C. § 101 as, purportedly, being "directed to non-statutory subject matter." She also initially rejected (1) claim 17 under Section 112 as lacking adequate written description in the application, (2) claims 12-16 and 18 under Section 102(b) as anticipated by U.S. Patent No. 5,913,307 to Taieb, et al., (3) claims 17 and 19-22 under Section 103(a) as obvious in view of combined disclosures of the Taieb patent and U.S. Patent No. 6,526,967 to Cordero, et al., and (4) claim 21 as (provisionally) unpatentable over a claim of co-pending U.S. Patent Application Serial No. 10/522,130. The Examiner additionally objected to the specification as lacking suitable headings and not adequately identifying a generic term to accompany Applicants' references to the trademark Velcro, to the drawings as not illustrating portions of claims 17 and 21, and to an Information Disclosure Statement as, supposedly, not correctly identifying two cited documents.

In response to the Office Action, Applicants have amended claim 12 to incorporate features of claims 13-14 and cancelled claims 13-14 to avoid redundancy.

Applicants also have cancelled claim 21, revised claim 17 to match the written description, clarified the language of various other claims, and added claim 23. Applicants further have revised the specification as requested by the Examiner. Without conceding the correctness of any rejection or objection of the Examiner, Applicants believe all such rejections and objections are now moot (or otherwise resolved) and, accordingly, request that claims 12, 15-20, and 22-23 be allowed.

B. The Rejections

1. Section 101

The Examiner initially rejected claims 12-22 as directed to non-statutory subject matter, expressing concern that Applicants affirmatively were claiming portions of a human body. In particular, the Examiner objected to Applicants' "use of 'said' to refer to a hand or an eye." See Office Action at p. 7. Applicants accordingly have deleted any references to "said" hand or eye in claim 12 and confirm no portion of a human body is positively recited in the claim. Applicants thus request that the Examiner's initial rejection under Section 101 be withdrawn.

2. Section 112

Claim 17 was initially rejected by the Examiner because the specification only expressly references a display device removably mounted "on one of a face mask *or* protective goggles," whereas the claim recited "on one of a face mask *and* protective goggles." Applicants do not concede any change to claim 17 is necessary in this instance. However, to expedite allowance of the application, Applicants have substituted "or" for "and" in the claim, hence mooting the Examiner's concern.

3. Sections 102(b) and 103(a)

Applicants have revised claim 12 to incorporate features of previously-pending claims 13 and 14. As now drafted, claim 12 refers to a storage device:

- configured for storing particular emergency equipment having at least one information display device adapted to be held close to, and to project a light signal bearing information onto, a user's retina; and
- comprising a display unit and a test device capable of causing a test light signal to be emitted from the display device in certain situations, with the test device including (1) control means for triggering emission of the signal and (2) transmission means for propagating the signal from the display device to the display unit visible to the user.

According to the Examiner, this subject matter is anticipated by the “test and reset button” and “lights 34” of the equipment of the Taieb patent. See Office Action at p. 9 (discussing claims 13-16). For multiple reasons, Applicants disagree.

Applicants' claim 12 refers separately to (1) a *display device* of the emergency equipment, (2) a *test device* constituting part of the storage device, and (3) a *display unit* also forming part of the storage device. It is the test device--which is part of the storage device--that causes the test signal to be emitted by the display device (which is part of the emergency equipment) and transmitted to the display unit (which is part of the storage device). Claim 12 further recites two distinct light signals, one denoted as an “information bearing” signal projected by the *display device* and the other as a “test” signal visible from the *display unit*.

- a. No System of the Taieb Patent Concurrently Utilizes Both a “Display Device” and a “Display Unit.”

According to the Examiner, lights 34 on mask 10 of Fig. 6 of the Taieb patent constitute a *display device* of emergency equipment as mentioned in claim 12.

Referring to an alternate embodiment in Fig. 7, the Examiner further contends the “test and reset” button of storage box 36 is the *test device* of claim 12 and either lights 34 or display 35 of storage box 36 is the *display unit* of the claim. In making these contentions, the Examiner ignores the fact that lights 34 are intended in the Taieb patent to be *either* on mask 10 *or* on box 36--and *not* to be duplicated on both the mask and the box. See Taieb, col. 3, l. 55 through col. 4, l. 10. Hence, even though the Taieb patent arguably discloses either a *display device* or a *display unit* of claim 12, *it clearly does not describe concurrent use of both*--as required by the claim. For at least this reason, therefore, Applicants request that the Examiner’s rejections based in whole or part on the Taieb patent be withdrawn.

b. No “Test Device” of the Taieb Patent Causes a Signal to be Sent From the “Display Device” to the “Display Unit.”

Moreover, even were these contentions of the Examiner correct, *in no way* does the “test and reset” button (*i.e.* the test device) of the Taieb patent cause a light signal to be transmitted *from* lights 34 of mask 10 (*i.e.* the display device) *to* lights 34 or display 35 of storage box 36 (*i.e.* the display unit) as recited in claim 12. By contrast, a module 32 causes a light signal to be transmitted either to lights 34 of mask 10 (in the version of Fig. 6) or to lights 34 of box 36 (in the version of Fig. 7). *Never is any transmission made from one set of lights 34 in the Taieb patent to the other.* This distinction provides a second basis for allowance of all claims over the Taieb patent.

c. The Taieb Patent Does not Identify the Effect of Actuating the “Test and Reset” Button.

As indicated in claim 12, Applicants’ test device includes both control means for triggering emission of a signal from the display device and transmission means for propagating that signal to the display unit. *Nowhere* in the Office Action does the Examiner detail how these means are included in the “test and reset” button depicted in Fig. 7 of the Taieb patent. Instead, the Examiner merely has assumed the “test and reset” button of the Taieb patent is configured as Applicants claim.

Such assumption by the Examiner is clearly impermissible. Nor is it likely to be correct: Whereas the present invention concerns displaying operational status of the display device, the Taieb patent concerns displaying operational status of a demand regulator associated with a mask. For at least this third reason, and because none of the deficiencies in the Taieb patent vis-à-vis claim 12 is cured by the Cordero patent, claims 12, 15-20, and 22-23 should be allowed.

4. *Provisional Double Patenting*

According to the Examiner, claim 21 is unpatentable over a claim of co-pending U.S. Patent Application Serial No. 10/522,130. Applicants believe the Examiner may have instead intended to reference U.S. Patent Application Serial No. 10/552,130, which has been published as U.S. Patent Publication No. 2006/0196503 (and apparently cited, albeit incorrectly, by the Examiner on Form PTO-892). Regardless, however, Applicants believe the provisional double-patenting rejection is moot even if assumed to be correctly made, as they have cancelled claim 21 without

prejudice. Applicants thus request that this provisional rejection be withdrawn as well.

C. The Objections

1. The Specification and Drawings

The Examiner objected to various of the specification and drawings of the application and to the adequacy of identification of two documents cited in a timely-filed Information Disclosure Statement. In response to the Examiner's objections, Applicants have revised the specification to include appropriate headings and enhance the generic description of "Velcro"-type fasteners. As noted above, Applicants additionally have revised claim 17 and cancelled claim 21, which resolve the Examiner's concerns about the drawings of the application. Applicants accordingly request that the Examiner's objections to the application be withdrawn.

2. The Information Disclosure Statement

Finally, according to the Examiner, Applicants' Information Disclosure Statement is deficient in its identification of "the Brooks and Cordero patent document numbers." See Office Action at p. 2. The sole basis for the Examiner's contention appears to be that, for these two published U.S. patent applications, Applicants omitted a leading zero following the document year (*i.e.* "2003/030911" instead of "2003/0030911" and "2002/189617" instead of "2002/0189617").

Applicants challenge the Examiner's contention for (at least) the following reasons:

1. The Examiner has identified *no authority whatsoever* for the proposition that inclusion of oft-omitted leading zeros, or reference to seven-digits numbers *only* following a publication year, is mandatory in identifying references in an Information Disclosure Statement;

2. Applicants' identification of each document also included its *exact* publication date and first-named inventor, providing *ample* information (even without the number) from which easily to locate a copy of each document;
3. Indeed, the Examiner actually *did* locate each document, referencing on her Form PTO-892 both U.S. Patent Publication No. 2003/0030911 of Brooks and U.S. Patent No. 6,526,967 of Cordero, et al. (which matured from U.S. Patent Publication No. 2002/0189617); and
4. *The Examiner's own Form PTO-892 fails consistently to utilize seven-digit numbers* following the publication year, identifying U.S. Patent Publication No. 2006/0196503 as "2006019503" instead.*

Because the Examiner's criticism of Applicants' Information Disclosure Statement lacks merit, Applicants request that the criticism be withdrawn.

Petition for Extension of Time

Pursuant to 37 C.F.R. § 1.136(a), Applicants petition the Commissioner for all extensions of time needed to respond to the Office Action.

Fees

Attached is authorization to charge a credit card for \$1020.00 for the petition fee. Applicants believe no other fee presently is due. However, if Applicants' belief is mistaken, the Commissioner is authorized to debit Deposit Account No. 11-0855 for any additional fee due as a consequence of Applicants' submission of this paper.

*For clarify of the prosecution record Applicants request that, with the next communication, the Examiner provide a new Form PTO-892 correctly identifying the number of U.S. Patent Publication No. 2006/0196503 of Bardel.

Conclusion

Applicants request that the Examiner allow claims 12, 15-20, and 22-23
and that a patent containing these claims issue in due course.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Dean W. Russell".

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